IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY THIRD DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 7011 of 1999

Between:

1.Kotha Shankaraiah, s/o.late Gattaiah.

2.Kotha Raja Kanakaiah, s/o. late Gattaiah.

3.Kotha Parthasarathy, s/o. lae Gattaiah.

4.Kotha Babu Rao, s/o. late Gattaiah.

5.Yamasani Saroja, w/o. Uppalaiah.

6.Md.Ismail, s/o. Meera Hussain.

7.Md. Afsar, s/o. Yousuf.

(All r/o.Naspur village, Mancherial Mandal,

Adilabad District)

.... PETITIONERS

AND

1. District Collector, Adilabad.

2. Mandal Revenue Officer,

Mancherial Mandal, Adilabad District.

3. M/s.Automotors Welfare Association,

Bellampalli Road, Mancherial Town & Mandal,

Adilabad District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, more in the nature of mandamus, declaring the action of the respondents in seeking to dispossess the petitioners from their land in Survey Nos.64/9 and 64/1 situated at Naspur village, Mancherial Mandal, Adilabad District, despite the petitioners having valid Pattadar Pass Books in their favour and without issuing any notice and opportunity and without following due process of law as being arbitrary, illegal, unconstitutional and violative of Articles 14, 21 and 300-A of the Constitution of India and violative of principles of natural justice and issue a consequential direction directing the respondents not to dispossess the petitioners from their land without following due process of law.

Counsel for the Petitioners : MR. D.KRISHNA REDDY

Counsel for Respondent Nos.1 & 2 : GP FOR ASSIGNMENT

Counsel for Respondent No.3 : None

The Court made the following :

O R D E R :

The seven petitioners herein allege that the land admeasuring Acs.2-00 in Survey No.64 of Naspur village, Mancherial Mandal, Adilabad District, was in possession of one Gattaiah, father of petitioners 1 to 5 herein, who was granted a patta on 20-9-1974 by the then Tahsildar of Luxettipet. After the death of the father of the petitioners, it appears, petitioners 1 to 5 have been in possession of the land and they made a request to the Mandal Revenue Officer, Mancherial Mandal, to sub-divide the land. The Mandal Revenue Officer conducted enquiry and issued Pattadar Pass Books in favour of petitioners 1 to 5 and that petitioners 6 and 7 are in possession and enjoyment of an extent of 0-28 gts. of land in Survey No.64/1. It is their case that on 30-3-1999 the Mandal Revenue Officer, Mancherial, second respondent herein, came along with the officials of third respondent and allegedly informed that steps are being taken to assign the land to third respondent Association. Therefore, the petitioners filed the present writ petition seeking a mandamus declaring the action of the respondents in trying to dispossess the petitioners without due process of law, is illegal and arbitrary.

A detailed counter affidavit is filed by the Mandal Revenue Officer stating that the land in Survey No.64 admeasuring Acs.197-38 gts. is Government Bancherai land, that the land claimed by the petitioners was not assigned to third respondent and that the writ petition is filed on mere apprehension. It is also stated that the petitioners are not cultivating the lands. A categorical averment is made that on 30-3-1999 the Mandal Revenue Officer has neither gone to the lands of the petitioners nor asked the petitioners to vacate the site. No reply affidavit is filed denying the statement made in the counter affidavit.

Learned counsel for the petitioners has invited the attention of this Court to proceedings of the Mandal Revenue Officer, Mancherial, dated 11-10-1993 whereby and whereunder the Mandal Revenue Officer entered the names of the petitioners 1, 2, 3 and 4 as share holders in the land admeasuring Acs.2-00 in Survey No.64/16. The learned counsel would urge that the said proceedings would show that the petitioners have a right in the land. Even if the same is taken to be true, it cannot be said that the petitioners have any cause of action. The petitioners have filed the writ petition on mere apprehension without proper factual foundation.

The writ petition, for the above reasons, is dismissed and the interim order dated 2-4-1999 stands vacated. No costs.

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(V.V.S. RAO, J.)

Dt.23-08-2004.

Msr.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. District Collector, Adilabad.

2. Mandal Revenue Officer,

Mancherial Mandal, Adilabad District.

3. 2CCs to Government Pleader for Revenue (Assignments),

High Court of A.P., Hyderabad.

4. 2CD copies

HON'BLE SRI JUSTICE V.V.S. RAO

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Dt.23-08-2004.

(Msr)